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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/843,452	04/26/2001	Michael J. Narayan	MFCP.81824	8292
5251	7590	07/26/2006	EXAMINER	
SHOOK, HARDY & BACON LLP INTELLECTUAL PROPERTY DEPARTMENT 2555 GRAND BLVD KANSAS CITY, MO 64108-2613			CHANKONG, DOHM	
		ART UNIT	PAPER NUMBER	
			2152	

DATE MAILED: 07/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/843,452	NARAYAN ET AL.
	Examiner Dohm Chankong	Art Unit 2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 01 May 2006.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1,2,6,8,11,19,21,23,25 and 33-41 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 1,2,8,19,23,34,35,38 and 39 is/are allowed.

6)  Claim(s) 6, 11, 21, 25, 33, 36, 37, 40 and 4 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
    Paper No(s)/Mail Date \_\_\_\_\_  
4)  Interview Summary (PTO-413)  
    Paper No(s)/Mail Date. \_\_\_\_\_  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

#### DETAILED ACTION

1> This action is in response to Applicant's request for continued examination. Claims 1, 6, 8, 11, 19, 21, 23, 25 are amended. Claims 33-41 are newly added. Claims 7, 12, 22 and 27-32 are cancelled. Claims 1, 2, 6, 8, 11, 19, 21, 23, 25 and 33-41 are presented for further examination.

2> This is a non-final rejection.

#### *Continued Examination Under 37 CFR 1.114*

3> A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5.1.2006 has been entered.

#### *Allowable Subject Matter*

4> Claims 1, 2, 8, 19, 23, 34, 35, 38 and 39 are allowed.

#### *Claim Rejections - 35 USC § 101*

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5>       Claims 6, 11, 21, 25, 33, 36, 37, 40 and 41 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. These claims are directed towards a computer readable medium. According to Applicant's specification, a computer readable medium includes a modulated data signal such as a carrier wave. A signal is a form of energy. A form of energy does not fall within the four categories of a process, machine manufacture or composition of matter. Rather, a computer readable medium is generally accepted to be a physical structure which permits the functionality to be realized with a computer. Thus, these claims are rejected under 35 U.S.C. § 101 because they are directed towards non-statutory subject matter.

One possible amendment is to amend the specification such as to omit the modulated data signal as a possible embodiment of the claimed computer readable medium.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Rothschild et al, U.S Patent No. 5.822.523;

Samuel et al, U.S Patent No. 6.018.766;

Rothschild et al, U.S Patent No. 6.226.686;

Bodnar et al, U.S Patent No. 6.275.831;

Yelon et al, U.S Patent No. 6.415.317;

Kizu et al, U.S Patent No. 6.732.144;

Miller et al, U.S Patent No. 6.839.752;

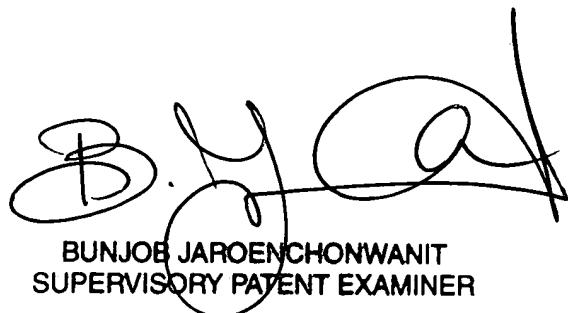
Sen et al, U.S Patent No. 6.845.389.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is 571.272.3942. The examiner can normally be reached on Monday-Thursday [7:30 AM to 4:30 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571.272.3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DC



BUNJOB JAROENCHONWANIT  
SUPERVISORY PATENT EXAMINER